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*Attorneys for Defendant Facebook, Inc.*

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

DZ RESERVE and CAIN MAXWELL (d/b/a  
MAX MARTIALIS), individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

FACEBOOK, INC.,

Defendant.

Case No. 3:18-cv-04978 JD

**DECLARATION OF NICOLE C.  
VALCO IN SUPPORT OF FACEBOOK,  
INC.'S MOTION TO DISMISS THE  
THIRD AMENDED CONSOLIDATED  
CLASS ACTION COMPLAINT**

Date: July 30, 2020  
Time: 10:00 a.m.  
Court: Courtroom 11, 19<sup>th</sup> Floor  
Hon. James Donato

1 I, Nicole C. Valco, declare as follows:

2 1. I am an attorney duly licensed to practice law in the State of California. I am a  
3 partner with the law firm of Latham & Watkins LLP, counsel of record for Facebook, Inc.  
4 (“Facebook”) in the above-captioned matter. I am licensed to practice law in the State of California  
5 and am admitted to practice before this Court. I have personal knowledge of the facts set forth  
6 below and, if called as a witness in a court of law, could and would testify competently thereto.

7 2. Attached hereto as Exhibit A is a true and correct copy of Facebook’s Advertiser  
8 Help Center webpage titled “About ad targeting,” which was downloaded on February 5, 2019  
9 from Facebook’s website at [https://www.facebook.com/business/help/717368264947302?helpref](https://www.facebook.com/business/help/717368264947302?helpref=u2u)  
10 [=u2u](https://www.facebook.com/business/help/717368264947302?helpref=u2u). It includes a section titled “What are ‘Potential Reach’ and ‘Estimated Daily Reach?’”

11 3. Attached hereto as Exhibit B is a true and correct copy of Facebook’s Advertiser  
12 Help Center webpage titled “How ad billing works on Facebook,” which was downloaded on  
13 February 6, 2019 from Facebook’s website at [https://www.facebook.com/business/help/](https://www.facebook.com/business/help/716180208457684)  
14 [716180208457684](https://www.facebook.com/business/help/716180208457684).

15 4. Attached hereto as Exhibit C is a true and correct copy of Facebook, Inc.’s  
16 “Statement of Rights and Responsibilities” which was downloaded on February 5, 2019 from  
17 Facebook’s website at [https://www.facebook.com/legal/terms/previous?ref=new\\_policy](https://www.facebook.com/legal/terms/previous?ref=new_policy). This  
18 document bears a last revision date of January 30, 2015.

19 5. Attached hereto as Exhibit D is a true and correct copy of Facebook, Inc.’s “Terms  
20 of Service” which was downloaded on February 6, 2019 from Facebook’s website at  
21 [https://www.facebook.com/legal/terms/plain\\_text\\_terms](https://www.facebook.com/legal/terms/plain_text_terms). This document bears a last revision date  
22 of April 19, 2018.

23 6. Attached hereto as Exhibit E is a true and correct copy of Facebook, Inc.’s “Self-  
24 Service Ad Terms,” which was downloaded on January 31, 2019 from the Internet Archive’s  
25 Wayback Machine at [https://web.archive.org/web/20171204145643/www.facebook.com/legal/](https://web.archive.org/web/20171204145643/www.facebook.com/legal/self_service_ads_terms)  
26 [self\\_service\\_ads\\_terms](https://web.archive.org/web/20171204145643/www.facebook.com/legal/self_service_ads_terms). This document was captured by the Wayback Machine on December 14,  
27 2017, and it bears a last revision date of November 10, 2017.

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7. Attached hereto as Exhibit F is a true and correct copy of Facebook, Inc.’s “Self-Serve Ad Terms” which was downloaded on February 5, 2019 from Facebook’s website at [https://www.facebook.com/legal/self\\_service\\_ads\\_terms](https://www.facebook.com/legal/self_service_ads_terms). This document bears an effective date of May 25, 2018.

8. Attached hereto as Exhibit G is a true and correct copy of Facebook, Inc.’s “Community Payment Terms” which was downloaded on July 11, 2019 from the Internet Archive’s Wayback Machine at [https://web.archive.org/web/20171130140906/https://www.facebook.com/payments\\_terms/](https://web.archive.org/web/20171130140906/https://www.facebook.com/payments_terms/). This document was captured by the Wayback Machine on November 30, 2017, and it bears a last revision date of November 1, 2017.

9. Attached hereto as Exhibit H is a true and correct copy of Facebook, Inc.’s “Community Payment Terms” which was downloaded on July 11, 2019 from the Internet Archive’s Wayback Machine at [https://web.archive.org/web/20180106074553/https://www.facebook.com/payments\\_terms/](https://web.archive.org/web/20180106074553/https://www.facebook.com/payments_terms/). This document was captured by the Wayback Machine on January 6, 2018, and it bears a last revision date of January 2, 2018.

10. Attached hereto as Exhibit I is a true and correct copy of Facebook, Inc.’s “Community Payment Terms” which was downloaded on July 11, 2019 from the Internet Archive’s Wayback Machine at [https://web.archive.org/web/20180531035603/https://www.facebook.com/payments\\_terms/](https://web.archive.org/web/20180531035603/https://www.facebook.com/payments_terms/). This document was captured by the Wayback Machine on May 31, 2018, and it bears a last revision date of May 7, 2018.

11. Attached hereto as Exhibit J is a true and correct copy of Facebook, Inc.’s “Community Payment Terms” which was downloaded on July 11, 2019 from the Internet Archive’s Wayback Machine at [https://web.archive.org/web/20181103013253/https://www.facebook.com/payments\\_terms/](https://web.archive.org/web/20181103013253/https://www.facebook.com/payments_terms/). This document was captured by the Wayback Machine on November 3, 2018, and it bears a last revision date of October 17, 2018.

12. Attached hereto as Exhibit K is a true and correct copy of Facebook, Inc.’s “Community Payment Terms” which was downloaded on July 11, 2019 from the Internet Archive’s Wayback Machine at <https://web.archive.org/web/20190512011144/https://>

1 www.facebook.com/payments\_terms/. This document was captured by the Wayback Machine on  
2 May 12, 2019, and it bears a last revision date of April 30, 2019.

3 13. Attached hereto as Exhibit L is a true and correct copy of Facebook, Inc.'s  
4 "Community Payment Terms" which was downloaded on July 11, 2019 from Facebook's website  
5 at [https://www.facebook.com/payments\\_terms](https://www.facebook.com/payments_terms). This document bears a last updated date of July  
6 10, 2019.

7 I declare under penalty of perjury that the foregoing is true and correct.

8 Executed on May 14, 2020 at San Francisco, California.

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11 By: /s/ Nicole C. Valco  
12 Nicole C. Valco  
13 *Attorney for Defendant Facebook, Inc.*  
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